REMARKS

Claims 1-17 are pending in the application and rejected only under 35 U.S.C. 103(a).

Claims Rejections 35 U.S.C. 103

Claims 1-7, 9, 10, 12-14, and 17 remain rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over **Reich** et al. (US 6,514,131) in view of **Stirm** (US 5,349,752). The Examiner's rejection has been carefully considered.

Claims 8, 11, 15, and 16 are rejected by the Examiner under 35 U.S.C. 103(a) as being unpatentable over **Reich** in view **Stirm** and further in view of **Park** (US 2005/0037699). The Examiner's rejection has been carefully considered.

I. Applicant argues that the rejections of claims 1-17 are not proper because the Examiner has erred in the factual interpretation of the Stirm reference (US 5,349,752).

The rejection relies on Reich for the teaching of a power tool with a machine housing having a dust-collection container attached thereto. The rejection relies upon Stirm for the teaching of a dust-collection box that is configured as an injection-molded part together with the machine housing.

The Examiner has not cited any passage or figure in Stirm in support of an assertion that Stirm teaches a dust-collection box that is configured as an injection-molded part together with the machine housing. The Exainer merely states that it would have been obvious to modify the power tool taught by Reich to have constructed the dust-collection box of the dust-collection container as an integral portion of the machine housing.

Applicant has previously argued that Strim, does not teach or suggest a dust collection box as an integral part of the tool housing. Applicant has cited elements 10, 11, and 12, the abstract, and column 1, lines 47-50, in Stirm as clearly teaching a box-like container 10 which is separable into two parts 11, 12. The box-like container is attachable and removable from a power tool. Part 11 "*has* ***means 15 for connecting the container to the power tool outlet*** *and the other part 12 has at least part of its wall surface formed of filter material 12a*" (Abstract). In a preferred embodiment, part 11 is made of a rigid molding of plastic with an integral tubular inlet **for attachment to a power tool** dust outlet (column 1, lines 47-50).

In response to Applicant's arguments, the Examiner has not addressed the citations provided by Applicant regarding the teachings on Strim. The Examiner has provided no citation from Stirm in support of the Examiner's assertions regarding the teachings of Stirm.

The power tool taught by Park comprises a detachable dust collection box and not a dust-collection box configured as an injection-molded part together with a machine housing. The rejection of record makes no assertion to the contrary.

In view of the foregoing arguments, Applicant maintains that the Examiner has clearly erred in the interpretation of the teachings founding the Stirm reference. The rejections of claims 1-17 rely on the erroneous interpretation of Stirm. Accordingly, the rejections of claims 1-17 as being unpatentable over Reich in view of Stirm and Reich in view of Stirm and Park are improper because none of the cited references, alone or in any combination, teach or suggest the limitation of a dust-collection box that is configured as an injection-molded part together with the machine housing.

Should the rejection of claims 1-17 be maintained, Applicant respectfully requests that the Examiner provide citations in Stirm in support of the assertion that

Stirm teaches or suggests a dust-collection box that is configured as an injection-molded part together with the machine housing.

II. Applicant argues that the rejection of claim 17 is not proper because the Examiner has erred in the factual interpretation of the Reich reference (US 6,514,131).

The rejection relies on Reich for the teaching that a handle is integrally formed on machine housing, and the handle is configured as a dust-collection container. Reich, however, neither teaches a dust-collection container that is integrally formed on a machine housing nor a dust-collection container that forms a handle.

As indicated in Applicant's response to the previous non-final Office Action, Reich teaches a power tool comprising a **suction device** (19) **integrated into its housing**, not a dust collection box (Abstract). A **dustproof dust box** (21) can be **detachably** fastened to ejection fitting (20). Therefore, Reich does not teach or suggest a dust-collection box (15) integrally joined with the machine housing, as recited in present claim 17.

As indicated in Applicant's response to the previous non-final Office Action, Column 3, lines 19-32 in Reich clearly indicate that the dust box (21) is not configured as a handle. To the contrary, the dust box (21) is, in part supported on the housing by a hook (24). The dust box is also supported by its attachment to injection fitting (22) via ejection fitting (20). The dust box (21) is in no way capable of being grasped as a handle and used to hold the power tool because it is designed for easy removal and is particularly light and thin. It is also clear in the drawings that the dust box is oriented away from an operator with the actual handle (14) between the dust box and the operator.

In response to the specific citations from Reich in support of Applicant 's arguments, the Examiner replies as follows:

"With regard to claim 17, the dust collection box in Reich is considered to form a portion of the handle, as it attaches to a lower section of the handle opening."

In other words, the dust collection box is attached to a part of the handle and is therefore a part of the handle and a box that is a portion of a handle is equivalent to a handle that is configured as a dust-collection container. The Examiner's interpretation is that a dust collection box that is attached to a handle is equivalent to a handle that is configured as a dust-collection container.

The Examiner's erroneous and unsupported assertion, when weighed against the arguments provided by Applicant that provide citations from Reich and reasoned statements in support of Applicant's arguments, clearly support Applicant's assertion that Reich in no way teaches or suggests a handle that is configured as a dust-collection container.

Should the rejection of claim 17 be maintained, Applicant respectfully requests that the Examiner provide citations in Reich in support of the assertion that Reich teaches or suggests a handle that is configured as a dust-collection container.

III. Applicant argues that one of ordinary skill would not have been motivated to modify the hammer drill dust collection box according to the teachings of Stirm because Stirm teaches a dust collection system that Reich is intended to replace.

Reich, column 1, lines 26-34, lists disadvantages associated with known dust collection systems for power tools. Reich, column 1, lines 26-34, is reproduced below for the Examiner's convenience:

> There are also known power tools with plastic cassettes used as dust boxes which can either be provided—like a reduced-scale grass-catcher for lawnmowers—with a multitude of air openings and lined with smooth-walled filter material or which are comprised of a porous, air-permeable plastic which cleans the air that blows the dust in and allows it to escape from the container while the dust is retained. These plastic cassettes have a tendency to permit fine dust to pass through, have a tendency to clog up, and are difficult to empty and clean.

Reich teaches that cassettes lined with smooth-walled filter material (such as the dust collection bag taught by Stirm) have a tendency to clog up and are difficult to empty and clean.

Reich teaches that drawbacks associated with the prior art dust boxes are overcome by providing folded filters with higher surface area; baffles; a tapered collection box; and particular orientations of filter folds and baffles starting in column 1 at line 61 and ending on column 2 at line 42.

The Stirm dust collection bag was known at the time of the Reich invention. The Stirm dust collection bag provides a box-like frame supporting a fabric bag (column 1, lines 26-40). The dust bag filter contains a paper filter (column 2, lines 53-58). The Strim dust collection bag does not include any of the elements indicated as advantageous by Reich. To the contrary, Stirm teaches a dust collection system that is very much like a reduced-scale grass-catcher for a lawnmower. According to the teachings in Reich, the dust collection bag taught by Stirm suffers from the drawbacks of having the tendency to clog up and being difficult to clean and replace. Stirm has no folded filters increase surface area or provide low turbulence as taught by Reich. Stir has no lamellas of a folded filter or dust baffles disposed lateral to the longitudinal axis of the dust box to improve suction as taught by Reich. Dust cannot automatically detach from the filter and, under the influence of gravity, fall into a dust box from which it can be easily emptied as taught by Reich. Clearly, the invention taught by Reich is

disclosed by Reich to be an improvement in a number of ways over the dust collection bag taught by Stirm. Accordingly, one of ordinary skill would not have been motivated to modify Reich using the teachings of Stirm.

Should the Examiner maintain the rejections of claims 1-17, Applicant respectfully requests that the Examiner articulate what the motivation would have been to modify Reich according to Stirm, what the modification would have been, what benefit would have been gained by the modification, and cite where support for the asserted motivation and modification can be found.

Request to Withdraw the Finality of the Office Action

IV. Applicant argues that the Examiner erred in making the Office Action mailed 06/08/20009 a Final Action. The finality of the Office Action is improper because the Examiner has failed to address the key points and citations in Stirm and Reich repeatedly presented by Applicant in the arguments against the claims.

Specifically, Applicant has provided citations in Stirm that clearly contradict the assertions made by the Examiner that the Stirm reference teaches a dust-collection box that is configured as an injection-molded part together with the machine housing. The Examiner has provided no evidence whatsoever in support of the assertion that Stirm teaches a dust-collection box that is configured as an injection-molded part together with the machine housing.

Additionally, Applicant has provided citations in Reich that clearly contradict the assertions made by the Examiner that the Reich reference teaches a handle that is configured as a dust-collection container. The Examiner has provided no evidence whatsoever in support of the assertion that Reich teaches a handle that is configured as a dust-collection container.

In view of the foregoing argument, Applicant respectfully requests that the finality of the Office Action mailed 06/08/20009 be withdrawn. Should the finality of the Office Action be maintained, Applicant respectfully requests that the Examiner articulate how the Examiner's responses to applicant's arguments addresses the citations provided by Applicant that Applicant argues contradict the Examiner's interpretation of the teachings of Reich and Stirm.

Conclusion

The application is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully Submitted,

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